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7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**  
10

11 ALEX VILLANUEVA,

12 Plaintiff,

13 v.

14 COUNTY OF LOS ANGELES,  
COUNTY OF LOS ANGELES  
15 SHERIFF'S DEPARTMENT, LOS  
ANGELES COUNTY BOARD OF  
16 SUPERVISORS, COUNTY EQUITY  
OVERSIGHT PANEL, LOS  
17 ANGELES COUNTY OFFICE OF  
INSPECTOR GENERAL,  
18 CONSTANCE KOMOROSKI,  
MERCEDES CRUZ, ROBERTA  
19 YANG, LAURA LECRIVAIN,  
SERGIO V. ESCOBEDO, RON  
20 KOPPERUD, ROBERT G. LUNA,  
MAX-GUSTAF HUNTSMAN,  
21 ESTHER LIM, and DOES 1 to 100,  
inclusive,

22 Defendants.  
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24  
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26  
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28

**CASE NO. 2:24-cv-04979 SVW (JCx)**

**DEFENDANTS' MEMORANDUM  
OF POINTS AND AUTHORITIES  
IN SUPPORT OF MOTION IN  
LIMINE NO. 1 TO EXCLUDE  
MULTIPLE EXPERT WITNESSES  
RE: EMOTIONAL DISTRESS**

*[Filed Concurrently with Notice of  
Motion in Limine, Declaration of Jason  
H. Tokoro; and [Proposed] Order]*

Date: May 26, 2025

Time: 1:30 p.m.

Crtrm.: 10A

Assigned to the Hon. Stephen V.  
Wilson, Crtrm. 10A and Magistrate  
Judge Jacqueline Chooljian, Crtrm. 750

Trial Date: June 3, 2025

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1 **I. INTRODUCTION**

2 Plaintiff Alex Villanueva has never sought any treatment for mental health  
3 issues, yet seeks in this case substantial damages for claimed “emotional distress.”  
4 No doubt concerned that proof of any emotional distress is lacking, Plaintiff decided  
5 to buttress his claim with testimony from three hired expert witnesses all giving  
6 opinions on the *identical* subject matter of emotional distress. Plaintiff should not  
7 be allowed to waste this Court’s and the jury’s time with needlessly cumulative  
8 testimony. Plaintiff should be required to select one expert on the issue.

9 It is well established that [Federal Rule of Evidence 403](#) vests this Court with  
10 considerable discretion to “exclude relevant evidence if its probative value is  
11 substantially outweighed by,” among other things, “confusing the issues, misleading  
12 the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.”  
13 [Fed. R. Evid. 403](#). Case law also makes clear that this discretion allows the Court to  
14 limit the number of experts presented by a party. *See Ruud v. United States*, 256  
15 [F.2d 460, 462-63 \(9th Cir. 1958\)](#).

16 Here, the three experts—Drs. Nigel Kennedy, Rebecca Udell, and Jessica  
17 Rowe—were all designated to give testimony “relating to the psychological impact  
18 of defendants’ actions on plaintiff” and as to “whether Plaintiff has experienced  
19 emotional distress as a result of [Defendants’] actions, the cause of the emotional  
20 distress, the prognosis, and treatment.” (Omnibus Declaration of Jason H. Tokoro  
21 (“Tokoro Decl.”) Ex. 3 (Pltf.’s Expert Disclosure at 2:20-24 (Rowe); 3:7-10 (Udell);  
22 3:21-24 (Kennedy))).) Each of the experts is providing an opinion that Plaintiff is  
23 diagnosed with an amorphous condition known as “adjustment disorder with mixed  
24 anxiety and depressed mood.” (*Id.* Ex. 4 (Rowe Report at ROWE 00011); Ex. 5  
25 (Udell Report at UDELL 00001); Ex. 6 (Kennedy Report at KENNEDY 00008).)

26 Drs. Kennedy, Udell, and Rowe are also relying on the same evidence in  
27 forming their opinions—interviews with Plaintiff, Plaintiff’s wife, and Plaintiff’s  
28 son via Zoom; Plaintiff’s medical records from Dr. Mary Wahbah; Plaintiff’s

1 deposition in this case; and Plaintiff’s First Amended Complaint. (Tokoro. Decl.  
2 Ex. 4 (Rowe Report at 000001, 00009-10); Ex. 5 (Udell Report at 000001-02); Ex. 6  
3 (Kennedy Report at 000003).)

4 The deposition testimony of each expert further demonstrates that the three  
5 experts are giving identical and needlessly cumulative opinions on the topic of  
6 emotional distress. Dr. Kennedy testified that Drs. Rowe and Udell were qualified  
7 to make the same diagnosis of “adjustment disorder” that he made. (*Id.* Ex. 7  
8 (Kennedy Depo. at 35:15-36:18).) Dr. Udell likewise testified that she had no  
9 reason to believe that Drs. Kennedy and Rowe lacked the qualifications to make the  
10 same diagnosis. (*Id.* Ex. 8 (Udell Depo. at 49:2-25; 50:1-51:18).)

11 Defendants designated a single expert to address Plaintiff’s claims of  
12 emotional distress. There is no reason why more than one is necessary; and, in fact,  
13 allowing Plaintiff to present multiple experts is prejudicial, as the jury could infer  
14 that more experts mean more weight to the testimony. The Court should order that  
15 Plaintiff designate one expert witness on the issue of emotional distress.

## 16 **II. BACKGROUND**

### 17 **A. Plaintiff’s Claims And Allegations Of Emotional Distress**

18 In March 2022, two personnel complaints were filed against Plaintiff—who  
19 was then the elected Sheriff of the County of Los Angeles (the “County”)—alleging  
20 he violated the Policy of Equality prohibiting harassment and discrimination. An  
21 outside law firm investigated those complaints. The investigations and their  
22 outcomes—including a notation of “Do Not Hire” in Plaintiff’s personnel file—  
23 were dictated by the evidence and independent decisions of the oversight panel.

24 Plaintiff filed his Tort Claim on May 15, 2024. (Dkt. No. 46, Exs. 7–8.)  
25 There was nothing in it about ballot measures, vaccine mandates, or Fulgent. (*See*  
26 *id.*) Plaintiff filed his initial complaint on June 13, 2024. (Dkt. No. 1.) There was  
27 nothing in it about ballot measures, vaccine mandates, or Fulgent. (*See id.*)

28 Plaintiff filed his FAC on September 30, 2024 and, for the first time, alleged

1 that the “protected speech” he engaged in was his opposition to Ballot Measures A,  
2 J, and R, the County’s Covid vaccine mandate, and the County’s Fulgent contract.  
3 (Dkt. No. 46.) The FAC further alleges a sweeping conspiracy headed by the Board  
4 to retaliate against Plaintiff for his views on these issues. (*Id.*)

5 Plaintiff alleges that he has “suffered significant emotional distress as a result  
6 of defendants’ actions and seeks legal damages to compensate for this harm.” (*Id.* at  
7 6:28-7:1.) His sole operative cause of action based on [42 U.S.C. § 1983](#) alleges that  
8 “plaintiff has suffered and continues to suffer humiliation, emotional distress, and  
9 mental and physical pain and anguish, all to his damage in a sum according to  
10 proof.” (*Id.* ¶ 28.)

11 **B. Plaintiff’s Designation Of Multiple Experts For Emotional Distress**

12 On March 21, 2025, Plaintiff served his Rule 26 Expert Disclosure. (Tokoro  
13 Decl. Ex. 3.) In it, he identified one expert on the issue of economic damages and  
14 three doctors on the issue of emotional distress. (*See id.*)

15 With respect to Dr. Rowe, the Disclosure stated that “[s]he is expected to  
16 offer opinions under [Federal Rules of Evidence 702](#), [703](#), and [705](#), relating to the  
17 psychological impact of defendants’ actions on plaintiff. She will testify as to  
18 whether Plaintiff has experienced emotional distress as a result of Plaintiff’s [sic]  
19 actions, the cause of the emotional distress, the prognosis, and treatment.” (*Id.* at  
20 2:20-24.) Plaintiff used *identical* language to describe the testimony of Dr. Udell.  
21 (*Id.* at 3:7-10.) For Dr. Kennedy, other than changing the “she” to “he,” the  
22 *identical* language was again used. (*Id.* at 3:21-24.)

23 Plaintiff included with his disclosure the report of each of the three experts.  
24 Each expert provided a summary of information learned from interviews of Plaintiff,  
25 his wife, and his son. (*Id.* Ex. 4 (ROWE 0006-11); Ex. 5 (UDELL 00001-3); Ex. 6  
26 (KENNEDY 00004-7).)

27 Finally, each report included an opinion that Plaintiff is diagnosed with an  
28 amorphous condition known as “adjustment disorder with mixed anxiety and

1 depressed mood.” (*Id.* Ex. 4 (Dr. Rowe Report at ROWE 00011); Ex. 5 (Dr. Udell  
2 Report at UDELL 00001); Ex. 6 (Dr. Kennedy Report at KENNEDY 00008).)

3 **III. THE COURT SHOULD LIMIT PLAINTIFF TO ONE EXPERT**  
4 **WITNESS ON THE ISSUE OF EMOTIONAL DISTRESS**

5 Federal Rule of Evidence 403 provides that “[t]he court may exclude relevant  
6 evidence if its probative value is substantially outweighed by a danger of one or  
7 more of the following: unfair prejudice, confusing the issues, misleading the jury,  
8 undue delay, wasting time, or needlessly presenting cumulative evidence.” *Fed. R.*  
9 *Evid.* 403. The court has discretion to exclude such evidence, including by limiting  
10 expert testimony. *In re Hanford Nuclear Rsr. Litig.*, 534 F.3d 986, 1016 (9th Cir.  
11 2008); *Ruud*, 256 F.2d at 462-63 (inherent power to limit the number of experts at  
12 trial has long been recognized).

13 As many courts have recognized, expert testimony from more than one expert  
14 should be precluded when there is substantial overlap. *Engman v. City of Ontario*,  
15 No. EDCV 10-284 CAS (PLAx), 2011 WL 2463178, at \*8 (C.D. Cal. June 20,  
16 2011) (excluding cumulative testimony from two experts that “overlap[ped]  
17 substantially”); *Royal Bahamian Ass’n v. QBE Ins. Corp.*, No. 10-21511-CIV, 2010  
18 WL 4225947, at \*2 (S.D. Fla. Oct. 21, 2010) (“Expert testimony may be needlessly  
19 cumulative where there is ‘substantial overlap’ between the areas on which two  
20 experts will testify.” (citation omitted)); *Price v. Fox Ent. Grp., Inc.*, 499 F. Supp.  
21 2d 382, 390 (S.D.N.Y. 2007) (precluding second expert to testify because of  
22 “substantial overlap” with the testimony of another expert).

23 The reasons for the limitation of duplicative expert testimony are apparent.  
24 For one, it ensures that a litigant cannot “make its case through the sheer weight of  
25 successive expert testimony by even two experts as to their identical conclusions on  
26 identical issues, let alone . . . three experts.” *United States v. Walker*, 910 F. Supp.  
27 861, 863 (N.D.N.Y. 1995). Second, not only is “[m]ultiple expert witnesses  
28 expressing the same opinions on a subject . . . a waste of time and needlessly



1 cumulative,” but “[i]t also raises the unfair possibility that jurors will resolve  
2 competing expert testimony by ‘counting heads’ rather than evaluating the quality  
3 and credibility of the testimony.” *Sunstar, Inc. v. Alberto-Culver Co.*, Nos. 01 C  
4 0736, C 5825, 2004 WL 1899927, at \*25 (N.D. Ill. Aug. 23, 2004).

5 The principles stated in the above authorities apply here. There is no reason  
6 for Plaintiff to present three expert witnesses on the issue of emotional distress.  
7 This is especially the case where Plaintiff’s own experts acknowledged at deposition  
8 that the other experts were qualified to render the same opinions. (Tokoro Decl. Ex.  
9 7 (Kennedy Depo. at 35:15-36:18); *id.* Ex. 8 (Udell Depo. at 49:2-25; 50:1-51:18).)  
10 In short, there will be no prejudice to Plaintiff by presenting one expert on the issue  
11 of emotional distress. In contrast, Defendants could suffer prejudice because the  
12 jury could interpret multiple witnesses as meaning a stronger opinion. *See Sunstar,*  
13 *Inc.*, 2004 WL 1899927, at \*25.

14 Finally, there is no question here that the three experts designated by Plaintiff  
15 will present identical testimony with identical bottom-line opinions that Plaintiff  
16 suffers from an “adjustment disorder.” It will be needlessly cumulative to allow all  
17 three experts to present their identical opinions. The Court should require Plaintiff to  
18 select one expert on the issue of emotional distress.

19 **IV. CONCLUSION**

20 For the foregoing reasons, the County respectfully requests that the Court  
21 grant the Motion and limit Plaintiff to one expert on the issue of emotional distress.  
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1 DATED: April 28, 2025

Respectfully Submitted,

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3  
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**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for Defendants, certifies that this brief contains 1,777 words, which:

☒ complies with the word limit of L.R. 11-6.1.

☐ complies with the word limit set by court order dated \_\_\_\_\_.

DATED: April 28, 2025

Respectfully Submitted,

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